

REMARKS

It is noted that claims 1-23 are pending in the application prior to this amendment, that claims 1-7 and 10-21 stand rejected as discussed more fully below, and that claims 8, 9, 22 and 23 have been objected to but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1, 7, 8, 13, 14, 22 and 23 have been amended in a manner believed to meet the Examiner's holding of allowability or more clearly distinguish over the references of record and, along with dependent claims 2-6, 9-12 and 15-20, are believed to be in condition for allowance. Claims 24 and 25 have been added and are also believed to be allowable. Claim 21 has been cancelled, which cancellation is to be taken without prejudice to applicant's claim to novelty in the subject matter defined therein.

On the merits, claims 1-7, 10, 12-19 and 21 stand rejected under 35 U.S.C. § 102(b) on U.S. Patent No. 1,861,069 to Smith. On page 2 (bottom) and pages 3 and 4 of the Action, the Examiner refers to a "marked attachment" (presumably a copy of the Smith patent) and refers to colors (again presumably on a copy of the Smith reference). Applicant's undersigned attorneys did not receive a marked-up or colored copy of the Smith '069 patent.

In any event, applicant's claim 1 has been amended to call for a monolithic building including a generally dome shaped unitary monolithic peripheral wall that includes a mesh reinforced built-up layer of cementitious material defining an outer generally convex surface and an interior chamber having an access opening enabling entry into and exit from the chamber. Amended claim 1 also calls for the door as having a frame supporting an outer metallic sheet or a mesh reinforced built-up layer of cementitious material defining a generally unitary closure wall

having a three dimensional convex external contour substantially similar to an outer convex contour of the dome shaped building adjacent the access opening.

The cited Smith '069 patent does not teach or suggest a monolithic dome shaped structure defined by a peripheral wall as called for in applicant's amended claim 1, nor does it disclose a door having a frame supporting an outer metallic sheet or a mesh reinforced built-up layer of cementitious material defining a generally unitary closure wall having a three-dimensional convex external contour substantially similar to an outer convex contour of a dome shaped building adjacent the access opening as called for in applicant's amended claim 1. According, the Smith reference must fail as an anticipatory reference in respect to applicant's submitted claims 1-7, 10 and 12-19.


Claims 11 and 20 stand rejected under 35 U.S.C. § 103(a) on the cited Smith patent in view of U.S. Patent No. 3,736,707 to Neufeld, as set forth on page 4 of the Action. Claim 11 depends indirectly from amended claim 1, and claim 20 depends indirectly from amended claim 14. Because the Smith reference does not teach the basic structure of applicant's amended claims 1 and 14, it is respectfully submitted that modification of the Smith reference in view of Neufeld, as suggested by the Examiner, would not result in the subject matter called for in applicant's claims 11 and 20. Moreover, the Examiner has shown no motivation of why one would reconstruct the Smith reference structure in view of Neufeld without a teaching or suggestion in either of the Smith or Neufeld references to combine them.

In view of the foregoing, applicant's claims 1-20 and 22-25 as now presented are believed to be in condition for allowance and such action is earnestly solicited. If the Examiner should feel that a telephone discussion with applicant's undersigned attorney would be beneficial to

moving the application to allowance, it is respectfully requested that she initiate such a discussion.

Respectfully submitted,

WELSH & KATZ, LTD.

By 
Richard L. Wood
Registration No. 22,839

Dated: September 7, 2004
WELSH & KATZ, LTD.
120 South Riverside Plaza - 22nd Floor
Chicago, IL 60606
Phone: (312) 655-1500
Fax: (312) 655-1501